

REMARKS

Claims 1-30, 38, 40 and 42-47 stand rejected. Claims 1-30, 38, 40 and 42-47 are presently pending. In view of this response and the following remarks, reconsideration of the outstanding office action is respectfully requested.

Double patenting:

In view of the reinstated double patenting rejections, Applicant hereby submits a terminal disclaimed in compliance with 37 CFR 1.321(c) over issued patents 6,399,303 and 6,593,090. Therefore, it is believed that the nonstatutory double patenting rejections stated on pages 3-7 of the January 12, 2009 Office Action are now moot.

Rejections under 35 U.S.C. § 103 relying on Chafin et al.:

One pages 7-17 the Examiner recites various rejections for claims 1, 2, 4-7, 9-19, 30, 38, 40 and 42-47 under 35 U.S.C. § 103(a) as being unpatentable over Chafin et al. (U.S. 2003/0109031) in view of Butland et al. (U.S. 6,030,657). As Chafin et al. and the instant application are owned by the same party and named inventor is the prior inventor under 35 U.S.C. 104, in light of the declaration pursuant to 37 C.F.R. 1.130, and further in light of the terminal disclaimer, it is believed that these rejections are now moot.

Rejections under 35 U.S.C. § 103 relying on Childers et al.:

One pages 17-31 the Examiner recites various rejections for claims 1-30, 38, 40 and 42-47 under 35 U.S.C. § 103(a) as being unpatentable, all of which rely on Childers et al. (US 2004/00686872) to teach the claimed limitations. In light of the declaration pursuant to 37 C.F.R. 1.131 it is believed that these rejections are now moot. Applicant hereby retains the right to provide further evidence as to patentability of the instant claims over the cited references, but finds this unnecessary in light of the declaration pursuant to 37 C.F.R. 1.131.

It is believed that the foregoing is a complete response to the Office Action and that the claims are in condition for allowance. Applicant requests that a timely Notice of Allowance be issued in this case.

Applicant appreciates the opportunity to call the Examiner but believes that this amendment to the claims and the forgoing remarks fully address the issues raised by the Examiner. On the other hand, the Examiner is invited to call the undersigned attorney if he has any matters to address that will facilitate allowance of the application.

In the event that Applicant has overlooked the need for an extension of time, additional extension of time, payment of fee, or additional payment of fee, Applicants hereby conditionally petition therefore and authorize that any changes be made to Deposit Account No.: 50-3010.

Respectfully submitted,

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